

CLERK US DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

REBUTTY CLERK

JAN 20 PM 4:25

[Signature]

CITY OF KAUFMAN, TEXAS

No.

v.

MICHAEL CROCKER,
Defendant

3-15CR-0013M

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF TEXAS:

Defendant Michael Crocker, by and through the United States Attorney for the
Northern District of Texas and the undersigned Assistant United States Attorney,
respectfully represents as follows:

1. On or about August 29, 2014, a criminal citation was filed by the City of
Kaufman, Texas in the Municipal Court, City of Kaufman, Kaufman County, Texas,
Cause No. 1400006434, at the behest of Complainant Diane Dolores Fagula, against
Michael Crocker, charging him with disorderly conduct, arising from incidents occurring
between August 18-23, 2014, at 206 E. South Street, Kaufman, Texas 75142. On those
dates, while attempting to deliver mail in the scope of his employment as a United States
Postal Service Mail Carrier, Mr. Crocker was harassed by an aggressive dog at that
residence, and was falsely accused by the residents of cursing at them. Mr. Crocker
denies these allegations. At all times, Mr. Crocker's actions in communicating with the

were necessary and proper. Mr. Crocker believed that his conversations with the residents were justified under the circumstances.

2. Trial of this matter filed in the City of Kaufman Municipal Court has not commenced. Filing of this notice of removal is therefore timely under 28 U.S.C. § 1446(c)(1).

3. Defendant Crocker was served with a copy of the criminal citation concerning this matter by United States mail. A copy of the citation is attached hereto as Government Exhibit "A."

4. The above-entitled action is one which may be removed to this Court pursuant to 28 U.S.C. § 1442(a)(1), in that this is a criminal action commenced against a postal carrier for the United States Postal Service, for actions taken under color of such office and within the scope of Michael Crocker's employment. Defendant Crocker is being charged for actions he allegedly took while acting under color of federal law.

5. To the extent that any acts or omissions of Defendant Michael Crocker, while acting under color of such office and within the scope of his employment, affected the Complainant, Diane Dolores Fagula, the Defendant is immune from prosecution under the doctrine of "federal supremacy." See Mesa v. California, 489 U.S. 121, 133 (1989); Willingham v. Morgan, 395 U.S. 402, 405 (1969).

6. Alternatively, removal is appropriate under Sec.1442(a) due to the federal interest in preventing the harassment of federal officials by disgruntled patrons through the filing of criminal complaints with state law enforcement agencies.

7. Pursuant to the provisions of 28 U.S.C. § 1446(a), copies of all incident reports served upon the Defendant are attached hereto as Government Exhibit "B."

8. A copy of the Notice of Filing of this Notice of Removal to be filed with the City of Kaufman Municipal Court in accordance with 28 U.S.C. § 1446(d) is attached hereto as Government Exhibit "C."

WHEREFORE, Defendant Michael Crocker respectfully represents that the above-captioned action now pending in the Municipal Court, City of Kaufman, Kaufman County, Texas, Cause No. 1400006434, is properly removed therefrom to this Court.

Respectfully submitted,

JOHN R. PARKER
ACTING UNITED STATES ATTORNEY


J. MARK PENLEY
Assistant United States Attorney
Texas Bar No. 15750700
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8619
Facsimile: 214-659-8805
Email: Mark.Penley@usdoj.gov

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing Notice of Removal has been made on 20th day of January, 2015, by certified mail and by facsimile to:

Clerk
Kaufman Municipal Court
209 S. Washington
Kaufman, TX 75142
Facsimile: 972-932-0307

and

Nichols, Jackson and Dillard
Attorneys at Law
1800 Lincoln Plaza
500 N. Akard
Dallas, Texas 75201



J. MARK PENLEY
Assistant United States Attorney



MUNICIPAL COURT

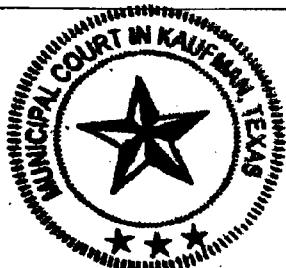
209 S. Washington * Kaufman, Texas 75142
Phone: 972-932-2216 Fax: 972-932-0307

NOTICE OF VIOLATION

Michael G. Crocker

August 29, 2014

RE: Case No. 1400006484



Dear Mr./Ms. Crocker:

A complaint has been filed with this court against you for the offense of Disorderly Conduct-Offensive Language. You have until September 15, 2014 to notify the court either through this notice or in person if you wish to enter a plea of GUILTY or NO CONTEST to the above complaint. If you wish to contest the charges filed against you, please do so in person by the given date in order to get a court date scheduled.

If you enter a plea of GUILTY or NO CONTEST, the court will accept the fine and court costs in the amount of **\$316.00**, provided that you make a disposition of the case ON or BEFORE September 15, 2014. You may enter your plea of guilty or no contest in the appropriate blank provided below and return this signed form along with your MONEY ORDER/CHECK (no temporary checks) payable to the CITY OF KAUFMAN and mail to: Kaufman Municipal Court -209 S. Washington - Kaufman, Texas 75142 or you may drop off your envelope in the night drop box located outside City Hall. No proceedings are accepted by phone or online.

Our office hours are Monday - Friday 8:00 AM - 5:00 PM. (Except Holidays)

PARTIAL PAYMENTS ARE NOT ACCEPTED, IF YOU WISH TO REQUEST A PAYMENT PLAN YOU MUST DO SO IN PERSON BY DATE LISTED ABOVE ALONG WITH \$50 DOWN PAYMENT.

Check ONE Only: Guilty or No Contest

I, (print name) _____, the undersigned, do hereby waive the filing and reading of a sworn complaint. I waive my right to a jury trial and enter a plea of guilty / nolo contendere (meaning "no contest") to the said offense charged. I understand that my plea and payment of the fine and court costs may result in a conviction appearing on either a criminal record or a driver's license record. A conviction of an offense under a traffic law of this state or a political subdivision of this state may result in the assessment on my driver's license of a surcharge under the Driver Responsibility Program.

Signature

Date

Valid Phone Number

IF YOU FAIL TO COMPLY WITH THE ABOVE MENTIONED OPTIONS A WARRANT WILL BE ISSUED FOR YOUR ARREST

Respectfully,

Kaufman Municipal Court



Kaufman Police Department

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INCIDENT Report

ORI: TX1290200	Incident No. 1400006897	9/10/2014
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Incident

CAD No.	Other No	Type	Non-Criminal	Date Occur 09/07/2014 10:40
Status Open	Clear. Date	Audited By:		Exc. Clear.
Inv. Status	Report By: Todd,Cristofori	09/07/2014		Approv. By: Gilmore,Johnny 09/08/2014
Fam. Viol. No	Narrative	Investigator Unknown		
Description				
Welfare concern (Animal)				

Dispatch Location

- Offense No. 1		Offense Recording Date 09/07/2014 11:56	
Off. Begin Date 09/07/2014 10:40	Off. End Date 09/07/2014 10:40	Entry Method	Attempt/Complete
Drug Seized	Gang Related	Hi-Speed Pursuit	Weapons Used
Offense Code Wel Con L/D	Offense Welfare Concern	No. of Premises	
Bias Motivation		Agg Asslt/Homic. Circumst.	Supplement: 0
Offense Addr. 206 E South St Kaufman		Loc. Type Resident - Single	
Remarks			
Welfare concern - animal.			

Victim(s)

Name	DOB	Race	Sex	DL	Address
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Victims (Organizations)

Name	Phone	Address
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Other Involved Person(s)

Name	Role	DOB	Race	Sex	DL	Address
Fagula, Diane Dolores	Complainant	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], Kaufman, TX 75142
HOPKINS, KATIE LYNN	Involved	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], Kaufman, TX 75142
Haley, Amy Jo	Involved	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], Kaufman, TX 75142

Vehicle

State	License	Status	Year	Make	Model	Body Style	Involved People
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Color	Other Color	VIN
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Wrecker Co:	Wrecker Call'd:	Wrecker Arriv'd:
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Remarks

KAUFMAN POLICE DEPARTMENT

Narrative

Date of report: 09/05/2014

Case Number: 1400006843

Incident Number :1400006843

On Friday, September 5, 2014 at approximately 1348 hours I, Officer Jordan Martin #919, was dispatched to 206 East South Street, in the City of Kaufman, Kaufman County, Texas in reference to an animal complaint.

Upon arrival, I met with Michael Crocker, [REDACTED]. Crocker advised that one of the dogs at 206 East South was chasing him and being aggressive. Crocker advised the dog has done this several times and that he can no longer deliver mail to the address. Crocker advised that the resident was cursing at him. Crocker advised his supervisor was on her way to our location.

Latosila Dora, [REDACTED] arrived on scene and advised that she wanted something done about the incident.

I then met with the resident at 206 East South Street, who was identified as Amy Haley, [REDACTED]. Haley advised that Crocker torments the dog. Haley advised that Crocker has cursed at her before and he has stood outside laughing at her. Haley advised that multiple mail delivery people have delivered mail to that residence before and nobody else ever had an issue. Haley advised that the dog never got out of the yard and did not chase him. I advised Haley that I was not sure if the animal control officer could do anything, but I was not sure of the animal control laws. I then left the location and contacted ACO Norris #938.

I advised ACO Norris of the incident and he advised that there were further actions that could be taken if the dog was deemed to be dangerous. Norris advised he wanted to go to the residence and advise her of the options that she had.

Norris and I arrived at 206 East South Street and met with Haley. Norris advised Haley that if the dog was deemed dangerous that she would have 30 days to get an insurance policy on the animal or the animal would be seized. Haley became aggravated and began yelling, at that time Norris and I left the location without further incident. N.F.I.

Officer: Martin, Jordan

Approving Supervisor: Dykes, Michael

Kaufman Police Department

Page 1

INCIDENT Report

ORI: TX1290200

Incident No. 1400006843

9/10/2014

Incident

CAD No.	Other No.	Type	Non-Criminal	Date Occur 09/05/2014 13:48
Status Open	Clear. Date	Audited By:		Exc. Clear.
Inv. Status	Report By: Martin, Jordan		09/05/2014	Approv. By: Dykes, Michael 09/06/2014
Fam. Viol. No	Narrative	Investigator Unknown		
Description				
Animal Complaint				

Dispatch Location

Offense No. 1		Offense Recording Date 09/06/2014 06:10	
Off. Begin Date 09/05/2014 13:48	Off. End Date 09/05/2014 13:48	Entry Method	Attempt/Complete
Drug Seized	Gang Related	Hi-Speed Pursuit	Weapons Used
Offense Code Nuisance L/D	Offense Animal Nuisance		No. of Premises
Bias Motivation		Agg Asslt/Homic. Circumst.	Supplement: 0
Offense Addr. 206 E South St Kaufman			Loc. Type Resident - Single
Remarks			

Suspect(s)

Name	DOB	Race	Sex	DL	Address
Haley, Amy Jo	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	209 E South St , Kaufman, TX 75142

Victim(s)

Name	DOB	Race	Sex	DL	Address
Crocker, Michael Gerald	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], KEMP, TX 75143

Victims (Organizations)

Name	Phone	Address
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Other Involved Person(s)

Name	Role	DOB	Race	Sex	DL	Address
Crocker, Michael Gerald	Complainant	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], KEMP, TX 75143
Dora, Latosila Cook	Involved	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED], Arlington, TX

Vehicle

State	License	Status	Year	Make	Model	Body Style	Involved People
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Color	Other Color	VIN
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Wrecker Co:

Wrecker Call'd:

Wrecker Arriv'd:

Remarks

NO. 1400006434

CITY OF KAUFMAN, TEXAS,
Plaintiff

v.

MICHAEL CROCKER,
Defendant

IN THE MUNICIPAL COURT

CITY OF KAUFMAN

KAUFMAN COUNTY, TEXAS

NOTICE OF FILING OF NOTICE OF REMOVAL

Please take notice that on January 20, 2015, Defendant Michael Crocker, by and through his undersigned counsel, filed with the United States District Clerk for the Northern District of Texas, Dallas Division, a Notice of Removal of the above-entitled cause to the United States District Court. A copy of the Notice of Removal is attached hereto in accordance with the provisions of 28 U.S.C. § 1446(d).

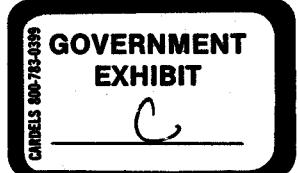
Dated: January 20, 2015.

Respectfully submitted,

JOHN R. PARKER
ACTING UNITED STATES ATTORNEY


J. MARK PENLEY
Assistant United States Attorney
Texas Bar No. 15750700
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8619
Facsimile: 214-659-8805
Email: Mark.Penley@usdoj.gov

ATTORNEY FOR DEFENDANT
MICHAEL CROCKER



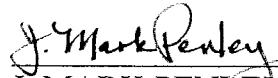
CERTIFICATE OF SERVICE

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Clerk
Kaufman Municipal Court
209 S. Washington
Kaufman, TX 75142
Facsimile: 972-932-0307

and

Nichols, Jackson and Dillard
Attorneys at Law
1800 Lincoln Plaza
500 N. Akard
Dallas, Texas 75201



J. MARK PENLEY
Assistant United States Attorney